



Concise Explanatory Statement and Responsiveness Summary

**For the Amendment of
Chapter 173-170 WAC
Agricultural Water Supply Facilities**

March 2003
Publication No. 03-11-008

This report is available on the Department of Ecology website at:
<http://www.ecy.wa.gov/biblio/0311008>

For additional copies of this publication, please contact:

Department of Ecology
Publications Distribution Center
P.O. Box 47600
Olympia, WA 98504-7600
Email: ecypub@ecy.wa.gov
Phone (360) 407-7472

Refer to publication number 03-11-008

The Department of Ecology is an equal opportunity agency and does not discriminate on the basis of race, creed, color, disability, age, religion, national origin, sex, marital status, disabled veteran's status, Vietnam-Era veteran's status or sexual orientation.

If you have special accommodation needs or require this document in alternative format, please contact Christine Corrigan, Water Resources Program, at (360) 407-6607 (voice) or 711 (TTY) or 1-800-833-6388 (TTY).



As required by the
Washington State Administrative Procedures Act
Chapter 34.05 RCW

Concise Explanatory Statement and Responsiveness Summary

For the Amendment of
CHAPTER 173-170 WAC
Agricultural Water Supply Facilities

Prepared by:
Rebecca J. Inman
Washington State Department of Ecology
Water Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

March 2003

Publication No. 03-11-008

TABLE OF CONTENTS

<i>I.</i>	<i>Introduction</i>	<i>pg. 1</i>
<i>II.</i>	<i>Differences between Proposed and Final Rule</i>	<i>pg. 1</i>
<i>III.</i>	<i>Responsiveness Summary</i>	<i>pp. 1 - 4</i>
<i>IV.</i>	<i>Summary of Public Involvement Actions</i>	<i>pg. 4</i>
<i>V.</i>	<i>Appendices</i>	
	<i>A. Public Hearings</i>	<i>pg. 7</i>
	<i>B. Written Comments</i>	<i>pg. 29</i>
	<i>C. Public Notices</i>	<i>pp. 37</i>
	<i>including the proposed rule amendments</i>	
	<i>published in the Washington State Register</i>	

CONCISE EXPLANATORY STATEMENT

I. Introduction

- ◆ Identify the reasons for adopting this rule:

The Agricultural Water Supply Facilities rule sets procedures for the issuance of grants and loans to public entities for planning and projects related to agricultural water supply facilities from a fund established under the Referendum 38 bond issue in 1980. Of the original \$50 million, there is approximately \$23 million remaining. The rule revision is necessary to make good use of the remaining funds, achieve water savings for instream and out of stream uses, and to meet state funding commitments for the Yakima River Basin Water Enhancement Project.

- ◆ Identify the adoption date of rule and effective date of rule.

The rule will be adopted on March 19, 2003 and become effective on April 19, 2003.

II. Describe Differences between Proposed and Final Rule

- ◆ Describe the differences between the text of the proposed rule as published in the Washington State Register and the text of the rule as adopted (other than editing changes):

No changes were made between the text of the proposed rule published by the Washington State Register and the text of the rule adopted.

III. Summarize Comments

- ◆ Summarize all comments received regarding the proposed rule and respond to comments by category or subject matter. (Proposed changes are listed in bold type with related comments received summarized in the numbered paragraphs below each.)

General Program

1. Program has provided many valuable public benefits: improving the integrity of water supply systems, conserving water, and benefiting water quality.

Response: Comment noted.

2. Past projects have resulted in significant water conservation. Continued participation in the program will allow further improvements to occur sooner than if the program funds are not available.

Response: Comment noted. Supports proposed rule language.

3. Support the rule change proposed because it allows continued participation in the program.

Response: Comment noted. Supports proposed rule language.

Increase the limit of project funding for each public entity from \$1.5 million to \$2.5 million.

4. Support for increasing the funding limit for individual systems to \$2.5 million.

Response: Comment noted. Supports proposed rule language.

Exempt repaid loans from the funding limit.

5. Support for exempting repaid loans from the funding limit. While the availability of an emergency loan was helpful at a difficult time, the loan might not have been used if the district had realized that doing so would result in reducing the overall use of the Referendum 38 cost sharing.

Response: Comment noted. Supports proposed rule language.

Exempt the Yakima River Basin Enhancement Project from the funding limit.

6. Support for exempting the Yakima River Basin Enhancement Project from the funding limit.

Response: Comment noted. Supports proposed rule language.

Allow flexibility for providing additional grant money for projects with significant public benefit.

7. Support for providing flexibility to increase grant monies for projects.

Response: Comment noted. Supports proposed rule language.

Restrict funding of emergency projects to loans.

8. Support of maintaining the existing rule language that allows funding of emergency projects to 10% contribution by the entity, 60% loan, and 30% grant.

Response: The funding commitment for the Yakima River Basin Water Enhancement Project will significantly deplete the available funds for this program. To achieve the maximum benefit from the remaining funds, Ecology decided to restrict grant monies to the extent possible to those projects that provide greater public benefits. Emergency repair projects will no longer be eligible for grant funding as they have not historically improved system efficiencies or achieved on-going water conservation.

9. Irrigation entities set budgets and then assess fees per acre to cover expenses for a given year. In the event of an emergency, irrigation districts do not have the ability to assess twice in one year.

Response: Funding for emergency projects, although limited to loans under the proposed revision, would remain available at 90% of project costs. All financial impact from the revision will be delayed until districts are preparing to meet their loan obligations.

10. Farm economies cannot well afford extreme increases in assessments from one year to the next. The existing 10/60/30 formula for emergency funding provides at least some buffer on impacts to entity and family budgets.

Response: The availability of funding through the Referendum 38 program has provided financial benefit to public irrigation supply facilities for planning, system improvements, and emergency repairs—and will continue to provide benefits in these areas until funds are depleted. Although the restriction on emergency projects to loans only will increase loan balances and payments by 16% to 33%, the availability of funds may be extended by the restriction. Since funding for non-emergency projects continues to contain a grant element, entities may also be served by applying for project funding and rectifying any identified problems preemptively, before an emergency ensues.

Set loan interest rates at the beginning of the state fiscal year for loans issued that fiscal year.

No comments were received related to this proposed revision.

- ◆ Please indicate how the final rule reflects agency consideration of the comments or why it fails to do so.

All but one comment received was in support of the proposed rule language. The single comment in opposition objected to the removal of grant funding for emergency projects. (Currently 15 to 30% grant funding is available for emergency projects, with loans making up the remainder of 90% funding). Under the revised language, emergency projects would be eligible for loans only, for up to 90% of project costs.

As the rule revisions are expected to result in a more rapid depletion of the funds available, Ecology decided to reserve grant funding for those projects which contain the greatest public benefit. Emergency projects have not historically resulted in any long-term water savings or efficiencies.

IV. Summary of public involvement opportunities

Please provide a summary of public involvement opportunities for this rule adoption:

- ◆ Public presentations

A presentation was made on October 21, 2002 to the Water Resources Advisory Committee.

- ◆ Internet

Information on the rule revision proposal was posted on October 23, 2002 and kept updated throughout the rule-making process. The site included an informational overview, proposed rule language, contact information and, during both the formal and informal comment periods, a link for online comment submittal.

- ◆ Hearing dates and locations

- ❖ Yakima – 3 attendees
Tuesday, Feb. 4, 7:00 pm
Dept. of Ecology, Central Regional Office
- ❖ Moses Lake – 3 attendees
Wednesday, Feb. 5, 7:00 pm
Police Justice Building, Council Chambers Room

- ❖ Wenatchee – 2 attendees
Thursday, Feb. 6, 7:00 pm
Chelan County Planning, Conference Rm. 204

- ◆ Mass mailing pieces (i.e., focus sheets, news releases)

- ❖ Focus sheet mailed or emailed on October 23, 2002 to approximately 1,500 persons prior to the publication of the CR-102, providing information and an informal comment period on draft language
- ❖ Public notice/focus sheet mailed or emailed to the same approximately 1,500 persons on January 13, 2003 in conjunction with the publication of the CR-102 in the state register
- ❖ News release issued January 15, 2003

- ◆ Advertisements and/or newspaper announcements

Public notice for the rule revision and the associated public hearings was printed on Wednesday January 22, 2003 in the following newspapers:

- ❖ Yakima Herald-Republic
- ❖ Columbia Basin Herald
- ❖ Wenatchee World

Appendix A.

Public Hearings

The following individuals testified at public hearings for this rule revision:

James Trull, comments #1, 3
General Manager of the Sunnyside Div. of the Yakima Project
&
District Manager
Sunnyside Valley Irrigation District
PO Box 239
Sunnyside, WA 98944

Richard Erickson, comments # 2, 4, 5
East Columbia Basin Irrigation District
PO Box E
Othello WA 99344

Transcripts from each of the three public hearings follow.

WASHINGTON STATE DEPARTMENT OF ECOLOGY
WATER RESOURCES PROGRAM

ECOLOGY PUBLIC HEARING
AT THE DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON
FEBRUARY 4, 2003
7:00 p.m.

REPORTED BY:

BETH L. DRUMMOND, CCR

NOTARY PUBLIC

A P P E A R A N C E S

1

2

3

HEARING OFFICER: CHRISTINE CORRIGAN

4

5

SPEAKERS: (In order of appearance):

6

7

JAMES TRULL

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MS. CORRIGAN: Okay. Let the record show it is 7:30 on February 4th, 2003 and this hearing is being held at Ecology's Central Regional Office in Yakima, Washington.

Legal notice of these hearings was published in the Washington State Register on January 15th, 2003. Paid notices were published on January 22nd, 2003 in the Yakima Herald Republic, the Columbia Basin Herald, and the Wenatchee World.

In addition, notice of the hearings were mailed and e-mailed to approximately 1500 interested people. When I call your name, please step down front, state your name and address for the record.

And I didn't get your name, sir.

MR. TRULL: James Trull, T-r-u-l-l. I am James Trull. I'm the general manager of the Sunnyside Division of the Yakima Project. I'm also the district manager of Sunnyside Valley Irrigation District. Our address is P.O. Box 239, Sunnyside, Washington 98944.

This program has been in place, as you know, for many years and has provided many valuable public benefits. Originally, it was conceived for water supply facilities to improve the integrity of water supply

1

1 systems. And since then, it has provided water quality
2 benefits as well -- water conservation and water quality
3 benefits and has been very beneficial to the
4 organizations that I represent.

5 I am very pleased to see the Department of
6 Ecology making this rule change, as it will provide the
7 opportunity for my organization to continue to make
8 system improvements that will help us manage our water
9 wisely for the benefit of our landowners as well as the
10 public generally. So, again, I thank you for the
11 opportunity to comment and support this rule change.
12 Thank you.

13 MS. CORRIGAN: All testimony received at this
14 hearing along with all the written comments received by
15 February 15th, 2003 and testimony from hearings on
16 February 5th and 6th will be part of the official hearing
17 record for this proposal.

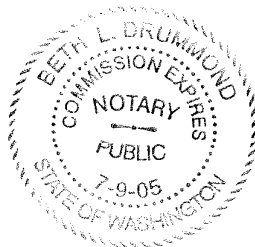
18 This hearing is adjourned at 7:33 p.m.

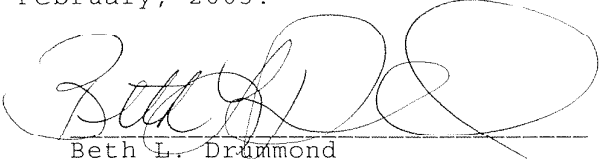
19
20 (7:33 p.m.)
21
22
23
24
25

1 STATE OF WASHINGTON)
2) ss.
3 COUNTY OF YAKIMA)
4
5

6 I, BETH L. DRUMMOND, do hereby certify that at
7 the time and place heretofore mentioned in the caption of
8 the foregoing matter, I was a Certified Court Reporter
9 and Notary Public for the State of Washington; that at
10 the said time and place I reported in stenotype all
11 testimony offered and proceedings had in the foregoing
12 matter; that thereafter my notes were reduced to
13 typewriting; and that the foregoing transcript,
14 consisting of 4 typewritten pages, constitutes a true and
15 correct record of all such testimony offered and
16 proceedings had and of the whole thereof.

17 WITNESS my hand and seal at Yakima, Washington,
18 on this 17th day of February, 2003.
19




Beth L. Drummond
CCR No. DRUMMBL273LA
Certified Court Reporter
Notary Public for Washington
My commission expires: 7-9-2005

WASHINGTON STATE DEPARTMENT OF ECOLOGY
WATER RESOURCES PROGRAM

ECOLOGY PUBLIC HEARING
AT THE POLICE JUSTICE BUILDING
MOSES LAKE, WASHINGTON
FEBRUARY 5, 2003
7:20 p.m.

REPORTED BY:

BETH L. DRUMMOND, CCR

NOTARY PUBLIC

A P P E A R A N C E S

HEARING OFFICER: CHRISTINE CORRIGAN

SPEAKERS: (In order of appearance):

DICK ERICKSON

1 MS. CORRIGAN: Let the record show it is 7:20
2 p.m. on February 5th, 2003 and this hearing is being held
3 at the Police Justice Building in Moses lake, Washington.

4 Legal notice of these hearings was published in
5 the Washington State Register on January 15th, 2003.
6 Paid notices were published on January 22nd, 2003, in the
7 Yakima Herald Republic, the Columbia Basin Herald, and
8 the Wenatchee World. In addition, notice of the hearings
9 were mailed and e-mailed to approximately 1500 interested
10 people.

11 When I call your name, you want to, please,
12 step down front here and state your name and address for
13 the record. Dick Erickson?

14 MR. ERICKSON: Good evening. My name's Dick
15 Erickson. I work for East Columbia Basin Irrigation
16 District. We're located in Othello. Our address is P.O.
17 Box E, as in East, Othello 99344. I turned in a
18 testimony letter to Mrs. Emlen, and I'll just summarize
19 the contents of that.

20 The East District is one of the three
21 irrigation districts operating the Bureau of
22 Reclamation's Columbia Basin Project. We supply the
23 Moses Lake and Othello area.

24 The east district has been participating in
25 the Referendum 38 program since 1986. We hit the one and

2

1 a half million dollar cap in the middle of 2002. During
2 1986 to 2002 period, we did dozens of improvement
3 projects that all had a water conservation benefit. The
4 most common projects were either converting open laterals
5 to pipelines or installing lines in in-line canals.

6 The Ref 38 cost share projects aren't the
7 only projects of that type that we've done. We also do
8 some strictly with district funds, and we've done other
9 similar projects with combinations of other funding
10 sources.

11 We estimate that since 1986 the total of
12 those projects is saving somewhere in the neighborhood of
13 14,000 to 17,000 acre feet per year in reduced seepage
14 losses. Our comprehensive water conservation plan, which
15 was also cost shared by Ref 38, estimates that if we
16 construct all the projects in that plan, we can save an
17 additional 40,000 to 60,000 acres due to seepage losses
18 per year.

19 These types of projects will continue, even
20 without the Ref 38 cost sharing but they're going to
21 continue at a slower pace.

22 The east district is especially interested,
23 in and especially recommends, approval of the portions of
24 the proposed amendments that raises the cap from one and
25 a half million dollars to two and a half million dollars

5

1 per irrigation district, and, also, the provision that
2 would make repaid loan amounts not subject to the cap.

3 The East District hit the cap with a
4 combination of \$1.1 million in grants and \$400,000 in a
5 repaid loan. So in effect, even though there's a \$1.5
6 million cap and we had the use of 1.5, we only had the
7 end net use of 1.1. And we think that's illogical; that
8 when you pay back a loan you should have your cap
9 restored. We're glad that Ecology recognizes that
10 shortcoming in the existing rules and is attempting to
11 change it. Thank you.

12 MS. CORRIGAN: Thank you. Bill Watson?

13 (Pause in the proceedings.)

14 MS. CORRIGAN: Okay. You've declined to
15 comment?

16 MR. WATSON: Yes.

17 MS. CORRIGAN: Okay. Thank you.

18 (Pause in the proceedings.)

19 MS. CORRIGAN: All testimony received at these
20 hearings along with all written comments received by
21 February 15th, 2003 will be part of the official hearing
22 record for this proposal.

23 After the comment period, Ecology staff will
24 review the comments made and write a summary of the
25 comments, response to the comments. The director looks

1 at the comment summary and makes a decision on the rule
2 adoption.

3 All people who gave us comments will receive a
4 copy of the response of this summary. And if any
5 significant changes are made, then, of course, we would
6 have to start the process over again. But if there are
7 no big changes, then adoption is currently scheduled for
8 March 2003 and the proposed rule will go into effect 31
9 days later. Thank you very much for being here and this
10 hearing is adjourned at 7:25 p.m.

11 (7:25 p.m.)
12
13
14
15
16
17
18
19
20
21
22
23
24
25

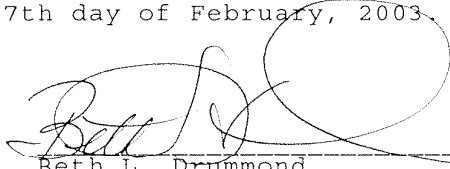
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF WASHINGTON)
) ss.
COUNTY OF BENTON)

I, BETH L. DRUMMOND, do hereby certify that at the time and place heretofore mentioned in the caption of the foregoing matter, I was a Certified Court Reporter and Notary Public for the State of Washington; that at the said time and place I reported in stenotype all testimony offered and proceedings had in the foregoing matter; that thereafter my notes were reduced to typewriting; and that the foregoing transcript, consisting of 6 typewritten pages, constitutes a true and correct record of all such testimony offered and proceedings had and of the whole thereof.

WITNESS my hand and seal at Kennewick, Washington, on this 17th day of February, 2003.





Beth L. Drummond
CCR No. DRUMMBL273LA
Certified Court Reporter
Notary Public for Washington
My commission expires: 7-9-2005

1
2
3
4
5 In Re:)
6)
7)
8)
9)

HEARING ON PROPOSED RULE)
AMENDMENTS FOR AGRICULTURAL)
WATER SUPPLY FACILITIES)

10 TAKEN ON: Thursday, February 6th, 2003

11 TAKEN AT: Chelan County Planning Building
12 411 Washington Street, Room 204
Wenatchee, Washington 98801

13 START TIME: 7:25 P.M.

14 END TIME: 7:26 P.M.
15
16
17
18
19
20
21

22 COPY
23
24
25

REPORTED BY: BARBARA J. SCOVILLE, CCR, RPR
CCR NO. BJ-SC-OV-I420DQ

APPEARANCES:

MS. CHRISTINE CORRIGAN, Hearing Officer
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
(360) 407-6607

MR. RAY NEWKIRK
MS. REBECCA INMAN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

IN RE: Hearing on Proposed Rule Amendments for
Agricultural Water Supply Facilities
February 6th, 2003

T E S T I M O N Y

(NONE)

E X H I B I T S

(NONE)

1 BE IT REMEMBERED that on Thursday,
2 February 6th, 2003, at 7:25 p.m., at Chelan County
3 Planning Building, 411 Washington Street, Room 204,
4 Wenatchee, Washington, the hearing was taken before
5 Barbara J. Scoville, Certified Shorthand Reporter and
6 Notary Public. The following proceedings took place:

7 --oOo--

8 MS. CORRIGAN: Let the record show it is 7:25
9 on February 6, 2003, and this hearing is being held at
10 the Chelan County Planning Building in Wenatchee,
11 Washington. Legal notice of these hearings was
12 published in the Washington State Register on
13 January 15th, 2003. Paid notices were published on
14 January 22nd, 2003 in the Yakima Harold Republic, the
15 Columbia Basin Harold and the Wenatchee World. In
16 addition, notice of the hearings were mailed and
17 e-mailed to approximately 1,500 interested people.

18 Testimony received at the hearings on February 4th
19 and 5th along with all written comments received by
20 February 15th, 2003 will be part of the official
21 hearing record for this proposal on Agricultural Water
22 Supply Facilities.

23
24 (CONTINUE ON NEXT PAGE.)
25

020603A

1 Let the record show that no one in attendance
2 wished to go on record, so this hearing is adjourned at
3 7:26.

4
5 (THE HEARING CONCLUDED AT 7:26 P.M.)
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

STATE OF WASHINGTON)) ss.
COUNTY OF CHELAN)

I further certify that I am not a relative, employee, attorney, counsel of any of the parties; nor am I financially interested in the outcome of the cause.

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my official seal this 13th day of
FEBRUARY, 2003. 01 10 11

3. 
Barbara J. Scoville, CCR, RPR
CCR NO. SC-OV-IB-J420DQ

Appendix B.

Written Comments

The following individuals submitted written comments regarding this rule revision:

Richard Erickson, comments # 2, 4, 5
East Columbia Basin Irrigation District
PO Box E
Othello WA 99344

Jack Carpenter, comments #4, 6, 7, 8, 9, 10
Kittitas Reclamation District
PO Box 276
Ellensburg, WA 98926

Copies of the written comments submitted follow.

WASHINGTON STATE DEPARTMENT OF ECOLOGY
WATER RESOURCES PROGRAM

ECOLOGY PUBLIC HEARING
AT THE POLICE JUSTICE BUILDING
MOSES LAKE, WASHINGTON
FEBRUARY 5, 2003
7:20 p.m.

REPORTED BY:

BETH L. DRUMMOND, CCR

NOTARY PUBLIC

EAST COLUMBIA BASIN IRRIGATION DISTRICT

55 North 8th
P.O. Box E

OTHELLO, WASHINGTON 99344

Phone 509 488 9671
Fax 509 488 6433

February 5, 2003

Ms. Rebecca Inman
Washington Department of Ecology
PO Box 47600
Olympia, WA 98504

RE: Proposed amendments to WAC 173-170, Agricultural Water Supply Facilities

Dear Ms. Inman:

Thank you for the opportunity to comment on the proposed amendments.

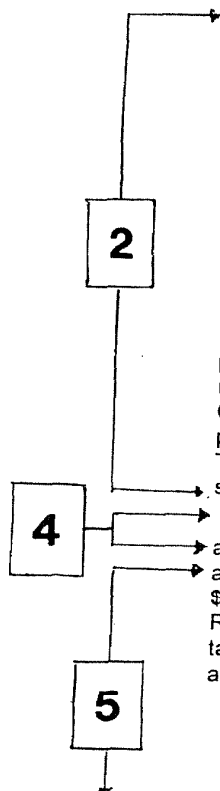
The East District is one of three irrigation districts operating the Bureau of Reclamation's Columbia Basin Project. The East District operates and maintains irrigation and drainage facilities that supply water to 152,000 irrigated acres in the Moses Lake, Warden and Othello areas of Grant and Adams Counties. The East District also supplies several municipal-industrial customers, such as food processors, parks and schools in this same service area.

The East District began participating in the Referendum 38 program in 1986. In mid-2002 the District reached the \$1.5 million limit for each irrigation district, thus halting further participation. During that 1986-2002 period the District completed dozens of pipeline and canal lining projects, all of which had water conservation as a major purpose. Other purposes of these projects included reduced maintenance costs, improved canal safety and protection of nearby property. Also during that period Referendum 38 funds assisted with the preparation of the District's Comprehensive Water Conservation Plan and a feasibility study for a re-regulation reservoir.

The conservation projects cost shared through Referendum 38 are not the only such improvements being made by the District. Numerous other pipelines, some canal lining and the CBP's extensive canal automation system have been done with strictly District O&M funds or with other combinations of funding.

The District estimates that since 1986 the combination of all these conservation projects are reducing seepage losses by a total of 14,000 to 17,000 acre feet per year, making this saved water available for other uses. The District's Comprehensive Water Conservation Plan estimates additional savings of between 40,000 to 60,000 acre feet per year are possible if all the projects identified in the Comp Plan are constructed. These types of conservation projects will go on without further Referendum 38 cost sharing but at a significantly slower pace.

The District especially supports and recommends approval of the proposed amendments that increase the per irrigation district limit cost share to \$2.5 million and also exempt repaid loans from the cap. As mentioned previously the East District hit the \$1.5 million cap in 2002. Of that amount \$420,218.21 was the principle amount of a Referendum 38 emergency loan completely repaid by 1998. That emergency loan was taken out to assist with both temporary and final repairs to the East Low Canal following a June 1992 canal failure. While the District appreciated the availability of that



Ms. Rebecca Inman
February 5, 2003
Page 2

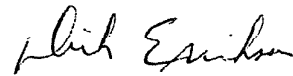
5

emergency loan and it was helpful to the District at a difficult time, we may not have used it had we realized that it would have the end effect of reducing our overall use of Referendum 38 cost sharing.

By counting this repaid loan against our \$1.5 million cap, our net use of Referendum 38 funds has been limited to \$1,079,781.79, a reduction of over one-fourth. We appreciate that Ecology has recognized this shortcoming of the Referendum 38 program and is taking steps to correct it.

Thank you for your consideration.

Sincerely,



Richard L. Erickson
Secretary-Manager

RLE:ll

Inman, Rebecca

From: Anderson, Chris (ECY)
Sent: Wednesday, February 12, 2003 2:57 PM
To: Inman, Rebecca
Cc: 'krdooffice@elltel.net'
Subject: FW: A comment was submitted from your program Internet web site.

Hi Rebecca:

I received this comment on AWSF.

Later,
Chris

Jack:

I forwarded your comments to Rebecca Inman. If you have other comments, please send them to Rebecca Inman at:

rinn461@ecy.wa.gov

Thank you,
Chris Anderson
Department of Ecology
Water Resources Program
(360) 407-6634 - Work
(360) 407-6574 - Fax
cand461@ecy.wa.gov - E-mail

-----Original Message-----

From: ecology@ecy.wa.gov [mailto:ecology@ecy.wa.gov]
Sent: Wednesday, February 12, 2003 2:38 PM
To: Anderson, Chris (ECY)
Subject: A comment was submitted from your program Internet web site.

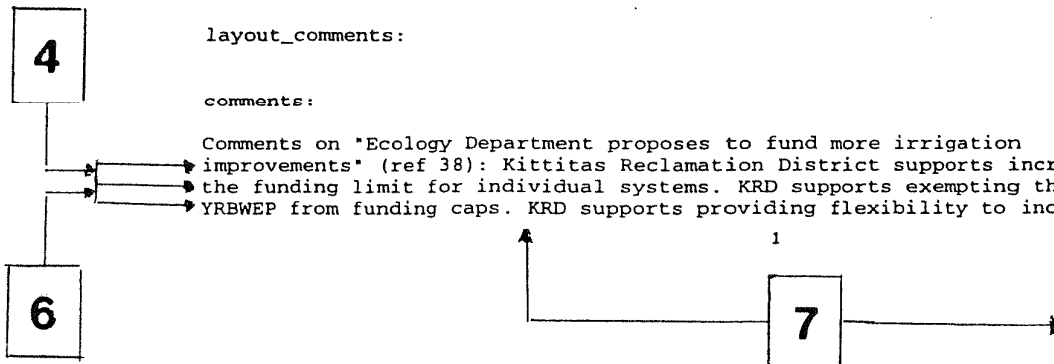
name: Jack Carpenter
Organization: Kittitas Reclamation District
email: krdooffice@elltel.net
street_address1: P. O. Box 276
street_address2:
City: Ellensburg
State: WA
zip: 98926
Phone: 509-925-1215
search: easy
layout: good

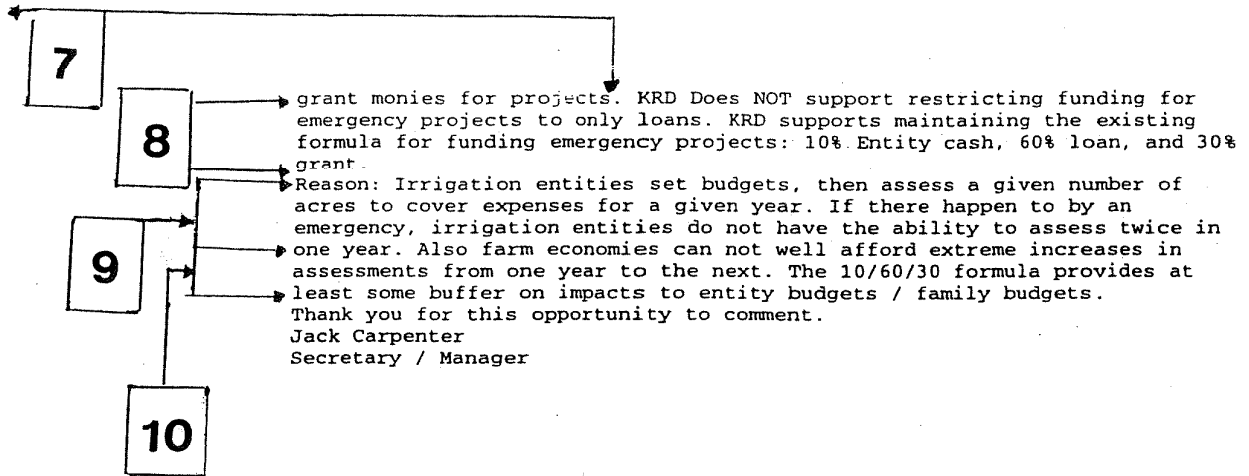
Search_Comments:

layout_comments:

comments:

Comments on "Ecology Department proposes to fund more irrigation improvements" (ref 38): Kittitas Reclamation District supports increasing the funding limit for individual systems. KRD supports exempting the YRBWEP from funding caps. KRD supports providing flexibility to increase





Appendix C.

Public Notice

The following notices were issued for this rule revision:

- ❖ Washington State Registers
CR-101, September 18, 2002
CR-102, January 15, 2003
- ❖ Focus sheet
October 23, 2002
- ❖ Public notice/focus sheet
January 13, 2003
- ❖ News Release
January 15, 2003
- ❖ Public notice/newspaper advertisements
January 22, 2003

Copies of all public notices follow.

725-2537, fax (360) 438-8633, e-mail olsonk12@dshs.wa.gov.

August 30, 2002

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 02-18-086

PREPROPOSAL STATEMENT OF INQUIRY HEALTH CARE AUTHORITY

(Basic Health)

[Order 02-06—Filed September 3, 2002, 10:11 a.m.]

Subject of Possible Rule Making: Revising the requirements for enrollment of dependents to allow for enrollment of children whose guardian is neither the parent nor a court-ordered legal guardian.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.47.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This begins the process of permanent rule making for the revisions filed as an emergency amendment to WAC 182-25-010(9), definition of "dependent," under Administrative Order 02-05. The current definition of dependent would exclude from enrollment any child living with a relative or other adult acting as a guardian without obtaining a court order. This revision would allow for enrollment of a child whose guardian is neither the parent nor a court-ordered legal guardian. The amendment presumes some agreement exists between the child's parent or legal guardian and the informal guardian who is providing their coverage, regarding financial responsibility or other obligations to the child.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agency regulates this subject.

Process for Developing New Rule: Stakeholder mailings and public hearings.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Information regarding this rule making will be posted on the agency website, <http://www.wa.gov/hca/basichealth.htm>; or you may contact Rosanne Reynolds, P.O. Box 42686, Olympia, WA 98504-2686, phone (360) 923-2948, fax (360) 923-2605, e-mail Rrey107@hca.wa.gov.

September 3, 2002
Melodie H. Bankers
Rules Coordinator

WSR 02-18-092

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed September 3, 2002, 12:31 p.m.]

Subject of Possible Rule Making: A new section in chapter 296-30 WAC, How would benefit payments be made

in the event of a funding shortfall? The subject of this rule is to establish the priority in which benefit payments would be made in the event of a funding shortfall.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 7.68.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 7.68.015 "The Department of Labor and Industries shall operate the crime victims' compensation program within the appropriations and the conditions and limitations on the appropriations provided for this program."

Labor and industries is required by law to pay medical costs, partial wage loss and pensions for crime victims who do not have other insurance. Under current law, if crime victims' claims exceed the appropriated funds, labor and industries has no choice but to stop payment for crime victims medical costs, partial wage loss and pensions.

The proposed rule provides a priority for partial payment reductions in the event of a funding shortfall.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: In general the crime victims' compensation program conforms to United States Department of Justice and Washington state statutes and administrative codes. The proposed rule clarifies Washington state statute.

Process for Developing New Rule: Public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cletus Nnanabu, Crime Victim Compensation Program Manager, P.O. Box 44520, Olympia, WA 98504-4520, phone (360) 902-5340, fax (360) 902-5333, TDD for hearing impaired (360) 902-4974, e-mail nnan235@lni.wa.gov. A public hearing in Tumwater will be scheduled. The Crime Victims Advisory Committee was notified at the quarterly meeting held on July 24, 2002.

September 3, 2002

Gary Moore
Director

WSR 02-18-095

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 02-11—Filed September 3, 2002, 1:30 p.m.]

Subject of Possible Rule Making: Amend the agricultural water supply facilities rule (chapter 173-170 WAC) which relates to issuance of grants and loans to public entities for planning and projects related to agricultural water supply systems. Funds are issued from the Referendum 38 Fund, established in 1980.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Referendum 38, codified in chapter 43.99E RCW, establishes the fund and authorizes the Department of Ecology to administer the account by direct expenditures or grants and loans to public entities.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agricultural supply facilities rule designates procedures for administering the fund.

Revision is necessary to make good use of the remaining monies and achieve water savings benefitting the state's public waters by: (1) Raising the limit on funding that individual public entities are eligible to obtain, (2) exempting repaid loans from the cap on funding, (3) exempting funding of proposals within the Yakima River basin water enhancement project (YRBWEP) from the cap on funding, and (4) providing additional incentives to secure water savings that will benefit the state's public waters.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other agencies regulate this subject, although public irrigation districts are the chief recipients of the grants and loans administered. In addition, the United States Bureau of Reclamation will be providing 75% of the funding for YRBWEP, for which the state has agreed to contribute 12.5%, with the sponsoring irrigation districts paying the remaining 12.5%. Throughout the rule-making process the United States Bureau of Reclamation will be made aware of draft language and their feedback will be solicited.

Process for Developing New Rule: Key stakeholders (irrigation districts, tribes, environmental groups, etc.) will be kept informed and given opportunities to provide feedback throughout the rule-making process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rebecca Inman, Department of Ecology, Water Resources Program, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7207, fax (360) 407-6574, e-mail rinm461@ecy.wa.gov.

A web page will be provided with information on the proposed changes, including the draft rules and capability for on-line comment submittal, both before and after filing of the CR-102. In addition, ecology will distribute a focus sheet, by mail and e-mail, with information on the rule proposal and how to get further information or provide feedback. Public notice will be made in association with the CR-102 and approximately three hearings will be held, publicized by display ads.

September 3, 2002
Joe Stohr
Water Resources
Program Manager

WSR 02-18-098
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed September 3, 2002, 3:26 p.m.]

Subject of Possible Rule Making: WAC 388-550-2595 Payment methodology and scope of coverage for LTAC services and 388-550-2596 Services and equipment covered by MAA but not included in the LTAC fixed per diem rate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To add language to clarify that the long term acute care (LTAC) program's fixed per diem rate includes prescription drugs, total parenteral nutrition (TPN) therapy, IV infusion therapy, and/or epogen/neupogen therapy, up to two hundred dollars per day in total allowed charges.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this proposed WAC amendment. Draft material and information about how to participate are available by contacting the DSHS representative identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathy Sayre, Rules Program Manager, Medical Assistance Administration, Mailstop 45533, Olympia, WA 98504-5586, phone (360) 725-1342, fax (360) 586-9727.

August 29, 2002
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 02-18-107
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE
[Filed September 3, 2002, 3:50 p.m.]

Subject of Possible Rule Making: Personal use fishing rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Each year the department establishes time, place, and manner restrictions to allow for recreational fishing. This filing begins the rule process for the 2003-2004 sport seasons. These are rules other than rules resulting from the ocean seasons set under the Pacific Fisheries Management Council/North of Falcon process. The PFMC/NoF rules will be promulgated and filed later.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lew Atkins, Fish Program, Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2651. Contact by October 22, 2002. Expected proposal filing October 23rd.

September 3, 2002
Evan Jacoby
Rules Coordinator

WSR 03-02-033

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 02-11 -- Filed December 23, 2002, 12:28 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-18-095.

Title of Rule: Chapter 173-170 WAC, Agricultural water supply facilities, this rule sets procedures for issuance of grants and loans to public entities for planning and projects related to agricultural water supply systems.

Purpose: This rule revision is necessary to make good use of the remaining moneys and achieve water savings benefiting the state's public waters by: (1) Raising the limit of project funding from 1.5 million to 2.5 million; (2) exempting loans from the project funding limit once they are fully repaid; (3) allowing projects with significant public benefit to receive a larger portion of funding in grants (replacing loans); (4) restricting funding of emergency projects to loans; (5) allowing funding to be provided to YRBWEP projects as moneys are available; (6) exempting funding of YRBWEP projects from the limit set on project funding; and (7) setting loan interest rates at the beginning of the state fiscal year for loans issued that fiscal year.

Statutory Authority for Adoption: The rule is based on Referendum 38 codified as chapter 43.99E RCW. Further ability to adopt and change regulations of this class is included in RCW 90.54.040.

Statute Being Implemented: Chapter 43.99E RCW.

Summary: The rule revision: (1) Raises the limit on funding that individual public entities are eligible to obtain; (2) exempts repaid loans from the cap on funding; (3) adds provisions for funding of proposals within the Yakima River Basin Water Enhancement Project (YRBWEP); and (4) provides additional incentives to secure water savings that will benefit the state's public waters.

Reasons Supporting Proposal: Of the original \$50 million, there is approximately \$23 million remaining in the Referendum 38 authorization. These funds were authorized in 1980 but have not all been spent, in part due to outdated limitations in the rule. Water supply problems, coupled with concerns for endangered species and clean water, have added some urgency to improving agricultural water supply facilities. Changes in the rule would allow

greater flexibility in putting these moneys to work to fund irrigation-related water availability and conservation plans, studies, and projects. In addition, the decision to amend the rule to lift the funding cap was part of an agreement to provide funding for the ground water study in the Yakima River basin.

Name of Agency Personnel Responsible for Drafting: Rebecca Inman, 300 Desmond Drive, Lacey, WA, (360) 407-7207; Implementation and Enforcement: Ray Newkirk, 300 Desmond Drive, Lacey, WA, (360) 407-6630.

Name of Proponent: Department of Ecology, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The agricultural water supply facilities rule, chapter 173-170 WAC, provides procedures for the issuance of grants and loans to public entities for planning and projects related to agricultural water supply systems. Funds are issued from the Referendum 38 Fund, established in 1980. Providing funding for planning and system improvements and repairs is intended to promote water conservation, resulting in increased benefits to instream and out-of-stream uses.

Proposal Changes the Following Existing Rules: The rule revision: (1) Raises the limit of project funding from 1.5 million to 2.5 million per applicant; (2) designates loans as exempt from the project funding limit once they are fully repaid; (3) allows funding of projects with significant public benefit to receive a larger portion of funding in grants (replacing loans); (4) restricts funding of emergency projects to loans; (5) allows funding of YRBWEP projects as moneys are available; and (6) designates that funding of YRBWEP projects is exempt from the limit set on project funding.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because this rule revision does not relate to small businesses. All moneys distributed via this rule are distributed in grants or loans to public entities.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply to this rule revision as the rule is strictly procedural in nature and so relating only to internal government operations which are not subject to violation by a nongovernment party.

Hearing Location: Department of Ecology, Central Regional Office, 15 West Yakima Avenue, Suite 200, Yakima, on Tuesday, February 4, 2003, 7:00 p.m.; at the Police Justice Building, Council Chambers Room, 401 South Balsam, Moses Lake, on Wednesday, February 5, 2003, 7:00 p.m.; and at the Chelan County Planning, Conference Room #204, 411 Washington Street, Wenatchee, on Thursday, February 6, 2003, 7:00 p.m.

Assistance for Persons with Disabilities: Contact Christine Corrigan at (360) 407-6607 (voice) or 711 (TTY) or 1-800-33-6388 [1-800-833-6388] (TTY) by January 28, 2003.

Submit Written Comments to: Rebecca J. Inman, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7207, e-mail rinm461@ecy.wa.gov, fax (360) 407-7162, by 5:00 p.m., February 14, 2003.

Date of Intended Adoption: March 19, 2003.

December 23, 2002

Linda Hoffman

Deputy Director

OTS-6104.2

AMENDATORY SECTION(Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-010 Purpose and authority. The purpose of this chapter is to establish requirements for the grant and loan program covering rehabilitation, improvement, and construction of agricultural water supply facilities pursuant to Referendum 38, chapter 43.99E RCW. The department shall provide grants and loans to applicants for water supply facilities for agricultural use alone or in combination with fishery, recreational, or other beneficial uses of water. In this regard, an objective of providing state assistance to public bodies engaged in irrigation shall be to assist those entities in improving their efficiency of water use beyond current levels.

Note: All statutes, rules, or regulations cited in this chapter are available for review at Department of Ecology, ((~~Mailstop PV-11, Olympia, WA 98504-8711~~)) P.O. Box 47600 Olympia, WA 98504-7600.

[Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-010, filed 10/2/90, effective 11/2/90.]

AMENDATORY SECTION(Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-020 Definitions. (1) "Department" means the Washington state department of ecology.

(2) "Agreement" means a binding legal document containing all applicable terms and conditions pertaining to loans and/or grants entered into under Referendum 38 which is signed by the program manager for the department's water resources program and by the duly authorized official of the applicant.

(3) "Agricultural water supply facility" means a water supply and distribution system used for agricultural purposes and owned or operated by a public body, including but not limited to all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to the acquisition, construction, installation, or use of any such water supply or distribution system.

(4) "Applicant" means the public body making a request for financial assistance under Referendum 38.

(5) "Class A project" means a construction element associated with an agricultural water supply facility which:

(a) Results in improved water use efficiency and/or quantitative water savings as determined by the department; and

(b) Is one or more of the following: (i) Canal and lateral linings; (ii) piped conveyance and distribution system; (iii) consolidation and/or realignment of delivery systems; (iv) flow measuring devices, e.g., flow control devices; (v) entire structures/regulating structures (which are new or replace obsolete ones) including: (A) Checks, (B) checkdrops, (C) siphons, (D) turnouts, (E) flumes, (F) reregulation reservoirs; (vi) multiple use water storage dams and reservoirs; (vii) automation with central control of regulating structures including on-off control of pumping plants in canals and laterals; (viii) new booster pumps for pressurized systems; (ix) project pumping plants;

(c) In the event there are technological advances that increase water use efficiency and/or result in significant water savings that are not described in (a) of this subsection, such project element(s) will be evaluated as a Class A project by the department.

(6) "Class B project" means a construction element associated with an agricultural water supply facility which:

(a) Does not contribute to quantitative water savings as determined by the department; and

(b) Is one or more of the following: (i) In-line water withdrawal pumping plant; (ii) well drilling, well pumps; (iii) diversion dams; (iv) replacement, rehabilitation, or improvement of in-line booster pump(s); (v) rehabilitation or improvement of storage dam(s) or part(s) thereof.

(7) "Emergency project" means a capital improvement construction element to repair, due to natural causes (except drought), water supply, diversion or conveyance facilities, which is necessary to prevent unsafe conditions or ensure the continued delivery or conveyance of water in the agricultural water supply system.

(8) "Financial assistance" means grants and loans as authorized by chapter 43.99E RCW,

Referendum 38.

(9) "Fisheries facility" means a construction element associated with an agricultural water supply facility which:

(a) Is identified as an integral element of a project for the construction, rehabilitation, and/or improvement of an agricultural water supply facility; and

(b) Will provide recognized benefits to the anadromous and/or resident fish species of the state.

(10) "Implementation phase" means the acquisition, design, construction, and improvement of agricultural water supply facilities within an irrigation district or a specific area or drainage basin for storing, diverting, transporting, or distributing water to land for irrigation and for protecting and enhancing fisheries, recreational, or other beneficial uses that may be associated with such facilities.

(11) "Local clearinghouse" means the county or regional comprehensive planning agency designated to serve as a coordinating office for certain local areas. A list of clearinghouses is available from the department. The local clearinghouses review proposed projects for conformance to regional plans, ask for comments from other agencies, and relay these remarks back to the applicant. This process helps assure that policies and comprehensive plans of cities, counties, or regions will be followed.

(12) "Payment schedule" means the due dates for loan payments and any interest thereon, as included in the loan agreement.

(13) "Planning phase" means the preparation of a comprehensive water conservation plan which conforms with WAC 173-170-060, which covers the applicant's entire jurisdiction and service area.

(14) "Plans and specifications" means engineering information and calculations to support the project and construction drawings with necessary engineering detail of the project and complete material specifications and standards to support the drawings and project. These will be prepared in sufficient detail and, upon approval by the department, become part of the bid documents which allow contractors to bid on and construct agricultural water supply facilities or attendant fisheries facilities or recreational facilities or a portion thereof.

(15) "Public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal or public corporation thereof; an agency of the federal government; and those Indian tribes which may constitutionally receive grants or loans from the state of Washington.

(16) "Recreational facility" means a water and/or water-associated system which:

- (a) Is identified as an integral element of an agricultural water supply facility; and
- (b) Will provide recognized benefits for human use and recreation through fishing, boating, water skiing, swimming, rafting, picnicking, and/or camping.

(17) "Referendum 38" means the grant and loan financial assistance program and its procedures, which pertain to agricultural water supply facilities alone or in combination with fishery, recreational, or other beneficial uses of water, as authorized in chapter 43.99E RCW.

(18) "Request for financial assistance" means the formal application packet, as described in WAC 173-170-030 and 173-170-060, submitted to the department requesting grant and/or loan funds to accomplish an eligible project.

(19) (~~"Small parcels" means those lands which:~~

~~(a) Have been platted or subdivided prior to the enactment of the 1985 amendment to RCW 58.17.310, and~~

~~(b) Are entitled to receive irrigation water for noncommercial use, and~~

~~(c) Lie wholly within an irrigation district established under state laws prior to July 28, 1985.~~

~~(20))~~ "Water use efficiency elements" means those implementation projects or portions thereof which result in reduced operational and conveyance losses and improved delivery of requisite amounts of water to farms within the limits of the pertinent water right permit or certificate.

(20) "Yakima River Basin Water Enhancement Project" (YRBWEP) is a federal, tribal, state and local cooperative program for improving water supply, habitat and stream flow conditions in the Yakima River Basin of Washington. The project was originally authorized by Congress in 1979 with subsequent implementing legislation being passed in 1984 for fish passage improvements and in 1994 for water conservation and related elements.

[Statutory Authority: RCW 43.17.060, 90-20-109, § 173-170-020, filed 10/2/90, effective 11/2/90.]

AMENDATORY SECTION(Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-040 Comprehensive water conservation plan -- Contents -- Funding. The comprehensive water conservation plan, which is the ultimate work product due at the end of the planning phase, will address and provide information on the following topics for the

geographical area indicated in the request for financial assistance:

Applicant Organization

(1) Applicant's statutory authority; history of organization management; assessment authority; and operation procedures and management policies.

Land Base and Land Use

(2) Layout map showing:

(a) Boundaries of the applicant's jurisdiction and service area;

(b) Location of: (i) The lands which are assessed by the applicant, and (ii) those lands to which water is delivered in accordance with the water rights or water right claims or otherwise;

(c) Land use information including total acres irrigated over a representative historical period and cropping patterns for each year of a recent five-year period.

Water Supply, Use, and Rights

(3) Layout map showing location of: (a) Natural features (streams, rivers, lakes, ground water aquifers) including those in the watershed(s) where the water supply originates; and (b) all of the applicant's existing water supply facilities inside and out of its service area.

(4) Information on the applicant's and/or pertinent individual's water rights and/or water right claims for irrigation water supply, including ongoing or future water rights or water rights claims, conflicts, and litigation.

(5) Hydrologic water supply data including historical records of surface water availability (natural flows and storage), and ground water pumpages and other pertinent aquifer data on availability for withdrawal for water supply purposes.

(6) Quantities of surface water diverted and/or ground water withdrawn for water supply for each year of a recent five-year period. (Annual and monthly acre-feet and maximum and minimum monthly flows in ~~((cfs (surface) and gpm (ground water)))~~ cubic feet per second (cfs) for surface water and gallons per minute (gpm) for ground water.)

(7) Identify and assess the hydrological water flow system within the applicant's service

area as it pertains to the quantities of water: (a) Diverted or withdrawn, (b) conveyed and distributed, (c) delivered and applied on farm, (d) which recharge the ground water and are returned to the agricultural water supply system, and (e) which comprise return flows for further irrigation downstream within the agricultural water supply system.

(8) Identify the quality of water supply and an assessment of the water quality impacts from use of the agricultural water supply system within the applicant's jurisdiction.

Present Facilities and Operations

(9) Identify and describe the present physical system utilized for the storage, diversion, pumping, conveyance, and distribution of the water supply.

(10) Assess and evaluate the existing water supply system including system efficiencies and energy use.

Water Needs and Adequacy of Water Supply

(11) Forecast future trends of land use.

(12) Estimate irrigation water requirements for the present and anticipated land use and cropping patterns.

(13) Relate the water needs to present water supply available.

Evaluation of Opportunities for Improvements in Water Supply and Distribution System Efficiencies

(14) Identify improvements in water supply and distribution system efficiencies (structural and nonstructural).

(15) Document a system improvements and rehabilitation plan, prepare preliminary designs and cost estimates, and estimate time frame for implementation. Identify location of improvements on layout map.

(16) Quantify the reasonable net water savings that would result from the efficiency improvements.

(17) Identify and describe opportunities for improving irrigation water management.

(18) Quantify any net energy savings that would result from efficiency improvements.

(19) Evaluate the socioeconomic impacts from the efficiency improvements and rehabilitation plan and changes or modifications of the systems operations and management policies. Discuss and quantify the benefits that accrue from the implementation of the improvements and rehabilitation plan.

(20) Assess and evaluate the impacts and benefits of transferring the net water savings to other water uses and resources.

(21) Identify associated wetlands and assess the impacts on them from implementation of the physical system's improvements and rehabilitation plan.

(22) Evaluate the impacts on water quality standards from implementation of the physical system's improvements and rehabilitation plan.

(23) Evaluate other environmental impacts from the efficiency improvements and rehabilitation plan. Develop a plan regarding compliance with the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA) if applicable.

Financial

(24) Develop a financial program that addresses the implementation of the improvements and rehabilitation plan. The financial program should include, among other elements, a time schedule for completing the comprehensive water conservation plan, a summary of the applicant's current indebtedness and repayment plans, present and future operation, maintenance and energy costs (with and without implementation of the proposed project), and a schedule of assessments to cover planned indebtedness to complete implementation of the comprehensive water conservation plan.

[Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-040, filed 10/2/90, effective 11/2/90.]

AMENDATORY SECTION(Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-050 Planning phase -- Funding. (1) As available and awarded, financial assistance (~~((will be available))~~) for the planning phase will be provided in the form of:

- (a) Grants in the amount of fifty percent of the total eligible phase costs; and
- (b) Concurrent loans in the amount of forty percent of the total eligible phase costs.

(2) Loans shall be for a maximum five-year period, repayable at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following July 1 of the state fiscal year in which the loan agreement is entered into, discounted by four percent.

(3) Comprehensive water conservation plans must precede the implementation phase for projects approved after the effective date of these rules(~~((with the following exceptions:~~

~~—(a) Specific project work approved by the department prior to the effective date of these rules; or~~

~~—(b) Project work that is currently in the implementation phase, when these rules become effective; or~~

~~—(c) Specific project work that is approved by the department as part of a phased project begun prior to the effective date of these rules.~~

~~—For these exceptions, work may proceed without an approved comprehensive water conservation plan, provided that the applicant undertakes and completes its plan covering such projects within two years from the effective date of these rules)).~~

(4) Financial assistance for the planning phase, regardless of the form it takes, may not exceed two hundred thousand dollars per applicant. ~~((This ceiling shall not be subject to the review contained in WAC 173-170-080(5).))~~

[Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-050, filed 10/2/90, effective 11/2/90.]

AMENDATORY SECTION(Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-070 Criteria for approval of requests for financial assistance --

Implementation phase. (1)~~((a))~~ The implementation phase project(s) must be included in a comprehensive water conservation plan approved by the department.

~~((b) For projects that received approval from the department prior to the effective date of these rules, work may proceed provided the applicant undertakes and completes a comprehensive water conservation plan within two years of the effective date of these rules.))~~

(2) The agricultural water supply facilities must be designed to accomplish the purpose of the planned project. Accepted engineering design principles, criteria, and concepts will be used in the design of the facilities and approved by the department. Cost estimates for the proposed project must be prepared in detail. Plans and specifications must be approved by the department prior to advertising for construction bids.

(3) The State Environmental Policy Act (SEPA) requirements for any proposed actions must be met. The SEPA rules, chapter 197-11 WAC, will be followed to determine the environmental impacts of the proposed project. A copy of the ~~((environmental assessment and the final impact statement, if appropriate,))~~ final SEPA document and any needed supporting environmental analysis must be submitted to the department. ~~((If no impact statement has been prepared, a copy of the declaration of nonsignificance in accordance with chapter 197-11 WAC must be submitted to the department.))~~

(4) Documentation showing all lands and land rights required for satisfactory construction, operation, and maintenance of the project have been or can be acquired.

(5) The project will not be in conflict with any applicable federal, state, and local laws, orders, regulations, rules, licenses, and permits.

[Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-070, filed 10/2/90, effective 11/2/90.]

AMENDATORY SECTION(Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-080 Implementation phase -- Funding. (1) Implementation phase projects will be categorized by the department as Class A projects or Class B projects in accordance with the definitions for those terms under WAC 173-170-020 (5) and (6).

~~((For projects that received approval from the department prior to the effective date of these rules and where the applicant is working on the comprehensive water conservation plan, financial assistance will be available as follows:~~

~~—(a) For Class A projects, grants in the amount of twenty five percent of the total eligible project costs, and concurrent loans in the amount of sixty five percent of the total eligible project costs;~~

~~—(b) For Class B projects, grants in the amount of fifteen percent of the total eligible project costs, and concurrent loans in the amount of seventy five percent of the total eligible project costs.~~

~~—(3))~~ As funds are available and awarded, financial assistance for Class A projects subject to a completed comprehensive water conservation plan ~~((will be available))~~ shall be provided in the form of:

(a) Grants in the amount of thirty percent of the total eligible project costs; and

(b) Concurrent loans in the amount of sixty percent of the total eligible project costs.

~~((4))~~ (c) The department may issue an additional portion of the funding in grants for projects with significant public benefit.

(3) As funds are available and awarded, financial assistance for Class B projects subject to a completed comprehensive water conservation plan will be ~~((available))~~ provided in the form of:

(a) Grants in the amount of fifteen percent of the total eligible project costs; and

(b) Concurrent loans in the amount of seventy-five percent of the total eligible project costs.

~~((5))~~ (4) Financial assistance for implementation phase projects shall be limited to a total of ~~((one))~~ two million five hundred thousand dollars per applicant regardless of the form ~~((such financial assistance takes, with the following possibility of increase. This cap shall be subject to review on July 1, 1994. In the event that demand on the Referendum 38 fund is significantly less than anticipated this cap may be adjusted upwards to provide more funding possibilities to applicants already at the upper))~~, except that loans once fully repaid shall not be measured against the limit.

~~((6))~~ (5) Loans awarded shall be available on the following repayment and interest schedule:

(a) Loans for up to a maximum five-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following ~~((July 1))~~ the beginning of the state fiscal year (July 1) in which the loan agreement is entered into, discounted by four percent.

(b) Loans for five years through a maximum ten-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following ~~((July 1))~~ the beginning of the state fiscal year (July 1) in which the loan agreement is entered into, discounted by two percent.

(c) Loans for ten years through a maximum fifteen-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following ~~((July 1))~~ the beginning of the state fiscal year (July 1) in which the loan agreement is entered into, discounted by one percent.

(d) Loans for fifteen years through a maximum twenty-five-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following ~~((July 1))~~ the beginning of the state fiscal year (July 1) in which the loan agreement is entered into.

[Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-080, filed 10/2/90, effective 11/2/90.]

AMENDATORY SECTION(Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)**WAC 173-170-090 Emergency projects -- Applications -- Designation -- Funding. (1)**

Applications for emergency projects may be accepted at any time throughout the year. The application shall indicate:

(a) The nature of the occurrence that caused the need for repairs;

(b) The location of needed repairs;

(c) A project description of the repairs; and

(d) A summary of how the repairs fit within the long-range improvements addressed in the comprehensive water conservation plan.

If the comprehensive water conservation plan has not been completed, a summary of how the repairs fit within proposed long-range improvements.

(2) (~~Upon receipt of the application the department will designate the emergency project as a Class A or Class B project.~~) A decision on whether to fund the emergency project will be made within fifteen days of receipt of the application. The department may agree to the applicant incurring costs prior to an agreement being signed and shall so indicate by letter to the applicant.

(3) Financial assistance for emergency projects shall (~~take the following form:~~

~~(a) For Class A projects, grants in the amount of thirty percent of the total eligible project costs, and concurrent loans in the amount of sixty percent of the total eligible project costs; or~~

~~(b) For Class B projects, grants in the amount of fifteen percent of the total eligible project costs, and concurrent loans in the amount of seventy five))~~ be in the form of loans for up to ninety percent of the total eligible project costs.

[Statutory Authority: RCW 43.17.060. 90-20-109, § 173-170-090, filed 10/2/90, effective 11/2/90.]

AMENDATORY SECTION(Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)**WAC 173-170-100 (~~Small parcels~~) Yakima River Basin Water Enhancement Project --**

Funding. (1) (~~A small parcel element is that part of an implementation project that provides irrigation water for noncommercial use to small parcels, as defined in WAC 173-170-020(19).~~

- ~~(2) Financial assistance for the small parcel element shall be available in the form of:~~
- ~~(a) Grants in the amount of fifteen percent of the small parcel element's total eligible costs; and~~
- ~~(b) Loans in the amount of fifty percent when unaccompanied by a grant or thirty-five percent in combination with a grant of the small parcel element's total eligible costs.~~
- ~~(3) Financial assistance, whether grant, loan, or a combination grant and loan, may not exceed one hundred thousand dollars for any one applicant.~~
- ~~(4) Total funds available statewide for small parcel elements is one million dollars. Any moneys unspent out of that fund on July 1, 1995, shall be transferred to the general implementation fund and shall no longer be available for small parcel elements:))~~ The Yakima River Basin Water Enhancement Project (YRBWEP) may be provided state funding by agreement with the department, to the extent that moneys are available.

(2) Funds provided under this section for YRBWEP shall be exempt from WAC 173-170-080.

[Statutory Authority: RCW 43.17.060, 90-20-109, § 173-170-100, filed 10/2/90, effective 11/2/90.]

Legislature

Code Reviser

Register

© Washington State Code Reviser's Office



Focus

Agricultural Water Supply Facilities: proposed rule amendments

FOR MORE INFORMATION

Web Page

A copy of the proposed rule
can be found at:

[www.ecy.wa.gov/programs/wr/
wrhome.html](http://www.ecy.wa.gov/programs/wr/wrhome.html)

Click on Agricultural Water
Supply Facilities Rule

Ideas and suggestions about
the proposed rule amendments
can be submitted online.

Not online? Try your local
library or college.

Contact

Rebecca Inman
Dept. of Ecology
PO Box 47600
Olympia WA 98504
(360) 407-7207
Fax: (360) 407-6574

A FORMAL PUBLIC COMMENT
PERIOD AND HEARINGS ON
THE DRAFT RULE WILL BE HELD
DURING FEBRUARY 2003

Join the Water Resources

email list at:

www.ecy.wa.gov/maillist.html

Introduction

The Department of Ecology (Ecology) is proposing to make several changes to the existing state Agricultural Water Supply Facilities rule, WAC 173-170. Under this voluntary program, Ecology provides grants and loans to public irrigation districts to help them repair or improve existing agricultural water conveyance facilities such as ditches, pipes and other irrigation systems.

Since the existing rule was adopted in 1990, competing demands on state water supplies have made it more difficult to obtain water for agricultural purposes. As a result, irrigation districts have sought to improve the efficiency of their irrigation systems. The water conserved provides multiple benefits for farming operations as well as the potential to increase flows in streams to help support healthy fish populations. Ecology is proposing a number of amendments to the existing rule that would provide additional flexibility for making efficient and timely use of the remaining funds.

The proposed rule amendments

To encourage further water conservation and distribute remaining funds, Ecology is proposing the current rule be amended to:

- Raise the limit from \$1.5 million to \$2.5 million on the amount of funds that can be received by individual public entities for irrigation improvement projects. Many irrigation districts have received funds but are unable to access any more money due to the cap.
- Exempt the Yakima River Basin Water Enhancement Project proposals from the funding cap in order to meet state obligations. The Yakima basin project, begun in 1995, is designed to improve water supplies for irrigation and increase stream flows for fish in the basin. The project is funded by Ecology, the U.S. Bureau of Reclamation, and the districts involved.
- Provide flexibility to increase grant monies awarded for projects with significant public benefit.
- Restrict funding of emergency projects to loans only.
- Exempt repaid loans from the limit.

Background

In 1980, voters approved Referendum 38 known as the Water Supply Facilities – 1980 Bond Issue. The law is designed to provide financial assistance to public bodies that manage water such as irrigation districts and public water supply systems.

The referendum authorized the State Finance Committee to issue \$125 million in bonds — \$75 million for public water supply systems and \$50 million for agricultural water supply facilities, either alone or in combination with fishery, recreational or other beneficial uses of water. Ecology is responsible for administering the \$50 million in bond funding. There is approximately \$25 million left in the account.

For more information or to send informal comments on the draft rule amendments, see the box on page 1.



Notice

Comment period, hearings on proposed rule amendments for Agricultural Water Supply Facilities

**COMMENT PERIOD
JAN 15 TO FEB 15, 2003**

Hearings

Yakima

Tuesday, Feb. 4, 7:00 pm
Dept. of Ecology
Central Regional Office
15 W. Yakima Ave, Suite 200

Moses Lake

Wednesday, Feb. 5, 7:00 pm
Police Justice Building
Council Chambers Room
401 S. Balsam

Wenatchee

Thursday, Feb. 6, 7:00 pm
Chelan County Planning
Conference Rm. 204
411 Washington St.

For More Information

Web Page

A copy of the proposed rule
can be found at:

[www.ecy.wa.gov/programs/wr/
wrhome.html](http://www.ecy.wa.gov/programs/wr/wrhome.html)

Click on Agricultural Water
Supply Facilities Rule

Rule Questions:

Rebecca Inman
Phone (360) 407-7207

To Submit Comments

Online: see web page

Mail: Rebecca Inman

Dept. of Ecology
PO Box 47600
Olympia WA 98504
Fax: (360) 407-6574

The hearings

The Department of Ecology (Ecology) will hold three public hearings on proposed amendments to the existing Agricultural Water Supply Facilities rule (Chapter 173-170 WAC). During the hearings staff will explain the draft rule amendments, answer questions, and record testimony. (See side bar.)

The existing rule

Since the existing rule was adopted in 1990, competing demands on state water supplies have made it more difficult to obtain additional water for agricultural purposes. As a result, irrigation districts have sought to improve the efficiency of their irrigation systems. The resulting conserved water provides multiple benefits for farming operations as well as potentially increasing flows in streams to help support healthy fish populations. The rule administers a voluntary program, under which Ecology provides grants and loans to public irrigation districts to help them repair or improve existing agricultural water conveyance facilities such as ditches, pipes and other irrigation systems.

The proposed rule amendments

Ecology is proposing the following amendments to encourage further water conservation and provide additional flexibility for making efficient and timely use of the remaining funds:

- Raise the funding lid that individual public entities can receive for irrigation improvement projects from \$1.5 million to \$2.5 million. Many irrigation districts have received funds but are unable to get any more money due to the cap.
- Exempt the Yakima River Basin Water Enhancement Project proposals from the funding cap in order to meet state obligations. Started in 1995, the Yakima basin project is designed to improve water supplies for irrigation and increase stream flows for fish in the basin. The project is funded by Ecology, the U.S. Bureau of Reclamation, and the districts involved.
- Provide flexibility to increase grant monies awarded for projects with significant public benefit.
- Restrict funding of emergency projects to loans only.
- Exempt repaid loans from the limit.

Ecology is an equal-opportunity employer

Background

In 1980, voters approved Referendum 38, also known as the Water Supply Facilities – 1980 Bond Issue. The law is designed to provide financial assistance to public bodies that manage water such as irrigation districts and public water supply systems.

The referendum authorized the State Finance Committee to issue \$125 million in bonds — \$75 million for public water supply systems and \$50 million for agricultural water supply facilities, either alone or in combination with fishery, recreational or other beneficial uses of water. Ecology is responsible for administering the \$50 million in bond funding. There is approximately \$25 million left in the account.

For more information or to send comments on the draft rule amendments, see the box on page 1.



News Release

FOR IMMEDIATE RELEASE – Jan. 15, 2003
03-010

Ecology Department proposes to fund more irrigation improvements

OLYMPIA – The Department of Ecology (Ecology) is seeking public comment on several rule amendments that are designed to help public irrigation districts obtain more funding to repair or improve their existing water-delivery systems to farms.

In 1980, voters approved Referendum 38, which authorized the state to issue \$125 million in bonds to support improvements for public water-supply systems and public irrigation districts. Ecology is responsible for overseeing \$50 million in bond funding for public irrigation districts, while the Department of Health administers the other \$75 million to help utilities.

Ecology adopted a rule in 1990 that outlined the financial criteria for irrigation districts, including capping the amount of loan and grant awards that individual systems can receive. However, since the rule was adopted, competing demands on water supplies have made it more difficult to obtain additional water for agricultural purposes.

One way irrigation districts can manage water more effectively is by improving their existing conveyance systems. Unfortunately, many irrigation districts have already reached their funding caps under the department's 1990 rule.

To help irrigation systems get more funding from the Referendum 38 bond fund, Ecology is proposing to:

- Raise the funding limit for individual systems from \$1.5 million to \$2.5 million and allow irrigation districts that have repaid their loans to once again be eligible for funding.
- Exempt Yakima River Basin Water Enhancement Project proposals from any funding cap, since the state signed an agreement to provide \$17.5 million toward the project. Created in 1995, the Yakima basin project is designed to improve water supplies for irrigation and increase stream flows for fish in the basin. The project gets funding from Ecology, the U.S. Bureau of Reclamation and participating irrigation districts.
- Provide flexibility to increase grant monies for projects.
- Restrict funding for emergency projects to only loans.

The public-comment period for the proposed rule changes starts today and ends Feb. 15. The department will conduct three public hearings, all beginning at 7 p.m., to share information and collect comments:

- **Feb. 4 in Yakima** –Department of Ecology regional office, 15 W. Yakima Ave.
- **Feb. 5 in Moses Lake** –Police Justice Building, Council Chambers, 401 S. Balsam.
- **Feb. 6** –Chelan County Planning Building, conference room 204, 411 Washington St.

To receive a copy of the proposed amendments or to submit comments electronically, visit Ecology's Web site at: <http://www.ecy.wa.gov/programs/wr/wrhome.html>. Written comments and questions should be mailed to Rebecca Inman, Dept. of Ecology, P.O. Box 47600, Olympia, Wash., 98504-7600, or faxed to 360-407-6574.

###

Media contact: Curt Hart, Public Information Manager, 360-407-7139; pager, 360-971-9610

For more information about the rule: <http://www.ecy.wa.gov/programs/wr/wrhome.html>

Ecology's Web site: <http://www.ecy.wa.gov>

Broadcast version

The Ecology Department is seeking public comment on several proposed amendments to an existing regulation that limits how much state money public irrigation systems can receive to improve their systems.

Funding limits were adopted in 1990, but competing demands on state water supplies have made it more difficult to obtain additional water for agriculture – so Ecology wants to make it easier for irrigation districts to get funding so they can manage their water more effectively.

Public comments are being accepted through February 15th. For more information, contact the Department of Ecology by phone or through the Internet.



HEARINGS NOTICE

Agricultural Water Supply Facilities rule amendments

WHEN: Tuesday, Feb. 4, 2003, 7:00 pm
Yakima, Dept. of Ecology
Central Regional Office
15 W. Yakima Ave., Suite 200

Wednesday, Feb. 5, 2003, 7:00 pm
Moses Lake, Police Justice Bldg.
Council Chambers Room
401 S. Balsam

Thursday, Feb. 6, 2003, 7:00 pm
Wenatchee, Chelan County Planning
411 Washington St., Conf. Rm. 204

COMMENT PERIOD: Jan. 15 to Feb. 15, 2003

The Department of Ecology is holding hearings on proposed rule amendments to *Agricultural Water Supply Facilities, Chapter 173-170 WAC*. The rule administers a voluntary program under which Ecology provides grants and loans to public irrigation districts. The proposed amendments would help districts get more funding to repair or improve their existing water-delivery systems.

For more information, contact: Rebecca Inman at
(360) 407-7207, email [rinm461@ecy.wa.gov]

Or: www.ecy.wa.gov/programs/wr/wrhome.html

For special accommodation needs or language translation call (360) 407-6607 (voice) or 711 (TTY). Ecology is an equal opportunity employer.

04.529070 A.E